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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/720,874              | 11/24/2003  | Simon Brain          | 7114                | 5117             |
| 55740                   | 7590        | 09/12/2005           | EXAMINER            |                  |
| GAUTHIER & CONNORS, LLP |             |                      | GARCIA, ERNESTO     |                  |
| 225 FRANKLIN STREET     |             |                      | ART UNIT            |                  |
| BOSTON, MA 02110        |             |                      | PAPER NUMBER        |                  |

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DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/720,874

Applicant(s)

BRAIN ET AL.

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

The drawings are objected to because Figures 1 and 6 show the pin 38 projecting on the opposite side of the resilient plate 32 when Figures 2-5 and 7 show the pin projecting on the correct side. It appears that the pin shown in Figures 1 and 6 should be shown with hidden lines and not solid lines. Further, the cross-sectional views of Figures 3-5 and 7 are not completely hatched. Figures 3-5 and 7 show a front view interposed on a cross section view. See 37 CFR 1.84(i). Further, it is unclear what the two hidden parentheses on each lug 26, in Figures 3 and 4, represent.

Further, the plane upon which sectional view, Fig. 3, is taken should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight. See 37 CFR 1.84(h)(3) and MPEP 608.02(e).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 5 is objected to because "projection" in line 2 should be deleted. Appropriate correction is required. Applicant needs to revert to the original description. The examiner realizes that the pin in line 12 was not defined as a pin projection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, there is an inconsistency between the language in the preamble and a certain portion in the body of the claim, thereby making the scope of the claims unclear. The preamble clearly indicated that the locking mechanism is “for preventing unintended disconnection of a generally horizontal beam from a vertical support post having an array of vertically elongated first openings overlapped by an end flange of said beam, with lugs projecting from a front face of said flange ...”. However, the body of the claim positively recites “the flange and the lugs”, e.g., “a pin projecting from the mid-portion of said plate through a second opening in said flange above one of said lugs and beyond a front face of said flange” (lines 12-13), which indicates that the claims are being drawn to a combination of the “locking mechanism” and “the flange and the lugs”. Accordingly, is the combination or subcombination being claimed? Appropriate correction, clarification, or both is required.

Further, how can there be a second opening claimed without claiming the flange or a first opening? Further, the claim sets to define the pin projecting beyond a component not positively claimed, i.e., the front face of the flange. Further, the claim sets to define the location of the second opening above a component not positively claimed, i.e., one of said lugs.

Regarding claim 4, the limitation "said access opening" in line 4 makes unclear whether the access opening is one of the first openings recited in claim 1, line 3, or the second opening recited in claim 1, line 12. Further, if something is to be withdrawn as defined in "to withdraw" in line 4, shouldn't the term "into" in line 4 be --out of-- or --from--.

Regarding claims 2, 3, and 5, the claims depend from claim 1 and therefore are indefinite.

***Allowable Subject Matter***

Assuming arguendo that the combination is being claimed, then claims 1-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 1, the prior art of record does not disclose or suggest a locking mechanism, in combination with a flange and lugs, comprising, a pin projecting from a mid-portion of a resilient plate through a second opening in the flange above one of the lugs; and,

regarding claims 2-5, these claims depend from claim 1.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In particular, the limitation "a second opening in said flange above one of said lugs" in claim 1, lines 12-13 necessitated the new grounds. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-

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7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial "D".

E.G.

September 1, 2005

**DANIEL P. STODOLA**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**